IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 24 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE A.M.KAPADIA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PURNIMA@PUNAM HEMANTBHAI PAREKH - Applicant(s)

Versus

HEMANTBHAI RASIKLAL PAREKH & 1 - Respondent(s)

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Appearance :

MR PRANAV M RAVAL for Applicant(s) : 1,
MR SHAKEEL A QURESHI for Respondent(s) : 1,
MR HM PRACHCHHAK APP for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE A.M.KAPADIA

Date : 07/10/2005

ORAL JUDGMENT

1. By filing instant petition, the petitioner/wife seeks to challenge the order dated 30.11.2004

rendered in Criminal Revision Application No.84 of 2004 by the learned Sessions Judge, Rajkot by which the Criminal Revision Application filed by respondent No.1/husband came to be partly allowed and thereby the order dated 11.6.2004 recorded in Criminal Misc. Application No.712 of 2003 by the learned JMFC, Rajkot awarding maintenance of Rs.4000/- per month to the petitioner/wife under Section 125 of the Code of Criminal Procedure ('the Code' for short) came to be partly modified and thereby reduced the amount of Rs.1250/- and awarded Rs.2750/- per month as maintenance to the petitioner/wife.

2. Having heard Mr. Pranav M. Raval, learned advocate for the petitioner, Mr. Shakeel Qureshi, learned advocate for respondent No.1 and Mr. HM Prachchhak, learned APP for respondent No.2 – State of Gujarat and having perused both the orders one passed by the learned JMFC, Rajkot and second one passed by the learned Sessions Judge, Rajkot, and the set of evidence supplied by the learned advocates appearing for the parties, it appears that respondent No.1/husband is paying income tax and he is assessed

since 1996. The Income assessed by the Income tax department from 1996 to 2004 has been discussed in detail in para 9 of the judgment and order rendered by the learned Sessions Judge.

3. Considering the evidence on record and in the facts and circumstances emerging from the record of the case, according to this court, if the petitioner/wife is awarded Rs.3000/- per month by way of maintenance it would meet the ends of justice.

4. Seen in the above contest, this revision application deserves to be partly allowed by modifying the order passed by the learned Sessions Judge in Criminal Revision Application No.84 of 2004 by enhancing Rs.250/- per month and thereby awarding in all Rs.3,000/- per month to the petitioner/wife as maintenance.

5. For the foregoing reasons, the petition succeeds in part and accordingly it is partly allowed. The order dated 30.11.2004 passed by the learned Sessions Judge, Rajkot in Criminal Misc. Application

No.84 of 2004 is modified to the extent that the petitioner/wife is now entitled to receive from respondent No.1/husband an amount of Rs.3,000/- per month as maintenance instead of Rs.2,750/- from the date of filing of the application till realisation. Accordingly, respondent No.1/husband is directed to pay to the petitioner/wife, the maintenance at the rate of Rs.3,000/- per month from the date of filing of the application till realisation. Rule is made absolute to the aforesaid extent.

(A.M. Kapadia, J.)

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